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2 United States Attorney

ORIGINAL
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RICHARD S. MUELLER
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 OAKLAND DIVISION

CR00-40165 DLJ

11
12 UNITED STATES OF AMERICA,)

13 Plaintiff,)

14 v)

15 RICHARD CHEN,
16 VONI CHEN, and
MICHAEL FERGUSON,)

17 Defendants)
18

No.

VIOLATIONS 18 U.S.C. § 1341 - Mail
Fraud

OAKLAND VENUE

19
20 INDICTMENT

21 COUNTS ONE THROUGH FIFTY-SEVEN: (18 U.S.C. § 1341)

22 The Grand Jury charges.

23 1. At all times relevant to this indictment:

24 a. Golden Pacific Plastics Manufacturing Corporation, Inc. (Golden
25 Pacific) was a California corporation whose principal place of business was San Leandro,
26 California, until 1995, when it moved corporate offices to Houston, Texas;

27 b. Defendant Richard Chen was a principal of Golden Pacific;

28 c. Defendant Voni Chen was the President of Golden Pacific;

1 d. Defendant Michael Ferguson was an accountant and the
2 controller of Golden Pacific.

3 e. Bay Business Credit (BBC) was a finance lender licensed by the
4 State of California to make loans to business borrowers. BBC was in the business of
5 providing lines of credit to companies secured by accounts receivable and inventory, and
6 making terms loans secured by equipment.

7 2. On or about September 20, 1993, BBC and Golden Pacific entered into a
8 written Loan and Security Agreement whereby BBC agreed to provide: (1) a line of credit
9 to Golden Pacific secured by Golden Pacific's accounts receivable; and (2) a term loan to
10 Golden Pacific in the amount of \$300,000 up to a total maximum debt of \$550,000.
11 Pursuant to the Loan and Security Agreement, each month BBC loaned money to Golden
12 Pacific in amounts representing a certain percentage of Golden Pacific's accounts
13 receivable, and Golden Pacific assigned its accounts receivable to BBC.

14 3. On or about March 2, 1995, BBC and Golden Pacific entered into a second
15 Loan and Security Agreement (the Agreement) which replaced the previous agreement.
16 The second Loan and Security Agreement increased the amount of the term loan to
17 \$850,000 and increased the total maximum debt to \$2,350,000. In connection with
18 execution of the Agreement, Golden Pacific executed a written Promissory Note in favor
19 of BBC, dated March 2, 1995, in the principal amount of \$850,000.

20 4. On or about March 19, 1996, BBC and Golden Pacific entered into a
21 written letter agreement whereby the Agreement and the Promissory Note were amended
22 to provide that the principal amount of the term loan was increased to \$875,000 and the
23 total maximum debt was increased to \$2,375,000.

24 5. Under the Agreement, Golden Pacific identified its account debtors to
25 BBC, and BBC notified each of Golden Pacific's account debtors in writing of the
26 assignment of Golden Pacific accounts receivable to BBC, and directed that payment of
27 their debts to Golden Pacific must be made to BBC rather than to Golden Pacific.

28 6. On or about March 2, 1995, defendants Richard and Voni Chen each

1 executed a personal written guaranty of Golden Pacific's obligations to BBC pursuant to
2 the Agreement.

3 7. Between in or late 1994 and continuing to in or about June 1996, in the
4 Northern District of California, the defendants

5 RICHARD CHEN,

6 VONI CHEN,

7 and

8 MICHAEL FERGUSON

9 did knowingly execute a scheme to defraud and falsely to obtain loans from Bay
10 Business Credit. The scheme to defraud was in substance as follows.

11 8. Beginning in or about late 1994 and continuing to late 1995, the defendants
12 recruited a number of co-schemers, including Flamingo Industries USA Ltd., Global
13 Packaging Products, Global Supply Company, Metro Poly Corporation, Central Bag
14 Company, Norsesea Corporation, and Forever Enterprises Corporation, to masquerade as
15 customers of Golden Pacific.

16 9. As a further part of the scheme, the defendants caused Golden Pacific to
17 create false invoices purporting to reflect that the co-schemers had ordered merchandise
18 from Golden Pacific and were obligated to pay for it, when in fact the transactions were
19 shams and the co-schemers had neither made bona fide orders for the merchandise nor
20 were they obligated to pay for it. The defendants then caused Golden Pacific to send the
21 false invoices to BBC pursuant to the Agreement, and BBC loaned money to Golden
22 Pacific based on the false invoices.

23 10. As a further part of the scheme, for some loans the defendants
24 caused Golden Pacific to provide money to the co-schemers to repay BBC the money
25 owed on the false invoices. In this manner the defendants made it appear as if co-
26 schemers were repaying the loans with their own funds and therefore that the sham
27 transactions were legitimate.

28 11 In furtherance of the scheme, the defendants created false financial

1 statements and other books and records of Golden Pacific which misrepresented Golden
2 Pacific's financial condition, by among other things, making the false invoices appear
3 legitimate. In order to conceal the fraud and to lull BBC into a false sense of security, the
4 defendants Golden Pacific submitted these false financial statements and books and
5 records to BBC for review as required by the terms of the Agreement.

6 12. Based on their submission of false invoices, bills of lading and other
7 documents to BBC, the defendants caused BBC to loan over \$8 million secured by
8 fictitious receivables created by the sham transactions. The average outstanding loan
9 balance secured by fictitious receivables was approximately \$1.5 million. In addition,
10 based on their submission of false invoices, bills of lading and other documents to BBC,
11 the defendants caused BBC to loan over \$700,000 in a term loan to Golden Pacific.

12 13. On or about the dates listed below, for the purpose of executing the
13 scheme to defraud, and to obtain money by false pretenses and representations,
14 defendants Richard Chen, Voni and Michael Ferguson did deliver and cause to be
15 delivered by United States mail or private or commercial interstate carrier, the
16 correspondence described below, each such act being a separate violation of 18 U.S.C. §
17 1341.

<u>COUNT</u>	<u>ITEM</u>	<u>FROM</u>	<u>TO</u>	<u>DATE</u>
18				
19	1.	Golden Pacific	BBC	02/08/1996
20	Invoice No. 3046	Houston, Texas	Walnut Creek, CA	
	in the amount of			
	\$15,171.42			
21	2.	Golden Pacific	BBC	02/20/1996
22	Invoice No. 3076	Houston, Texas	Walnut Creek, CA	
	in the amount of			
	\$10,344.15			
23	3.	Golden Pacific	BBC	02/26/1996
24	Invoice No. 3092	Houston, Texas	Walnut Creek, CA	
	in the amount of			
	\$34,916.85			
25	4.	Golden Pacific	BBC	03/06/1996
26	Invoice No. 3110	Houston, Texas	Walnut Creek, CA	
	in the amount of			
	\$68,320.00			
27				
28				

1	5.	Invoice No. 3153 in the amount of \$136,640.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/26/1996
2					
3	6.	Invoice No. 3149 in the amount of \$28,361.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/15/1996
4					
5	7.	Invoice No. 3075 in the amount of \$1,839.89	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	02/20/1996
6					
7	8.	Invoice No. 3132 in the amount of \$42,840.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/11/1996
8					
9	9.	Invoice No. 3143 in the amount of \$27,528.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/14/1996
10					
11	10.	Invoice No. 3154 in the amount of \$2,724.20	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/19/1996
12					
13	11.	Invoice No. 3217 in the amount of \$4,210.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/17/1996
14					
15	12.	Invoice No. 3289 in the amount of \$6,828.41	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/16/1996
16					
17	13.	Invoice No. 3290 in the amount of \$3,595.50	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/16/1996
18					
19	14.	Invoice No. 3294 in the amount of \$1,568.89	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/16/1996
20					
21	15.	Invoice No. 3299 in the amount of \$5,856.30	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/22/1996
22					
23	16.	Invoice No. 3300 in the amount of \$490.80	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/22/1996
24					
25	17.	Invoice No. 3321 in the amount of \$42,300.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	06/03/1996
26					
27	18.	Invoice No. 3041A in the amount of \$280.80	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	02/09/1996
28					

1	19.	Invoice No. 3154A in the amount of \$10,983.50	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/20/1996
2					
3	20.	Invoice No. 3189 in the amount of \$11,820.10	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/04/1996
4					
5	21.	Invoice No. 3108 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/05/1996
6					
7	22.	Invoice No. 3119 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/08/1996
8					
9	23.	Invoice No. 3120 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/08/1996
10					
11	24.	Invoice No. 3135 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/12/1996
12					
13	25.	Invoice No. 3136 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/12/1996
14					
15	26.	Invoice No. 3156 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/19/1996
16					
17	27.	Invoice No. 3158 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/20/1996
18					
19	28.	Invoice No. 3171 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/28/1996
20					
21	29.	Invoice No. 3201 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/10/1996
22					
23	30.	Invoice No. 3218 in the amount of \$10,644.48	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/17/1996
24					
25	31.	Invoice No. 3323 in the amount of \$39,536.64	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	06/10/1996
26					
27	32.	Invoice No. 3139 in the amount of \$10,920.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/13/1996
28					

1	33.	Invoice No. 3140 in the amount of \$13,420.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/13/1996
2					
3	34.	Invoice No. 3178 in the amount of \$15,051.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/29/1996
4					
5	35.	Invoice No. 3340 in the amount of \$5,625.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	06/14/1996
6					
7	36.	Invoice No. 3344 in the amount of \$26,868.38	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	06/17/1996
8					
9	37.	Invoice No. 3354 in the amount of \$20,935.20	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	06/18/1996
10					
11	38.	Invoice No. 3355 in the amount of \$9,100.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	06/18/1996
12					
13	39.	Invoice No. 3198 in the amount of \$35,032.50	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/09/1996
14					
15	40.	Invoice No. 3224 in the amount of \$30,102.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/23/1996
16					
17	41.	Invoice No. 3226 in the amount of \$14,013.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/24/1996
18					
19	(42.)	Invoice No. 3248 in the amount of \$9,082.50	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/01/1996
20					
21	43.	Invoice No. 3252 in the amount of \$4,800.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/03/1996
22					
23	44.	Invoice No. 3275 in the amount of \$14,340.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/13/1996
24					
25	45.	Invoice No. 3276 in the amount of \$5,975.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/14/1996
26					
27	46.	Invoice No. 3303 in the amount of \$7,189.12	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/22/1996
28					

1	47.	Invoice No. 3106 in the amount of \$15,222.57	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	03/04/1996
2					
3	48.	Invoice No. 3212 in the amount of \$50,881.60	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/16/1996
4					
5	49.	Invoice No. 3220 in the amount of \$63,833.28	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/18/1996
6					
7	50.	Invoice No. 3223 in the amount of \$71,234.24	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/22/1996
8					
9	51.	Invoice No. 3225 in the amount of \$28,678.72	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/23/1996
10					
11	52.	Invoice No. 3227 in the amount of \$13,876.80	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/24/1996
12					
13	53.	Invoice No. 3240 in the amount of \$12,789.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	04/29/1996
14					
15	54.	Invoice No. 3247 in the amount of \$8,400.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/01/1996
16					
17	(55.)	Invoice No. 3278 in the amount of \$9,240.00	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	05/14/1996
18					
19	56.	Invoice No. 3052 in the amount of \$21,888.15	Golden Pacific Houston, Texas	BBC Walnut Creek, CA	02/09/1996
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1 All in violation of 18 U.S.C. § 1341.

2
3 DATED:

A TRUE BILL.

4
5 FOREPERSON

6 ROBERT S. MUELLER, III
7 United States Attorney

8
9 
10 JOHN KENNEDY
11 Chief, Criminal Division

12 (Approved as to form:


M. Zandies